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OFFICE OF PETITIONS

In re Patent No. 6,985,341 : DECISION ON REQUEST FOR
Vinciarelli et al. : RECONSIDERATION OF
Issue Date: January 10, 2006 : PATENT TERM ADJUSTMENT
Application No. 09/841,471 : and
Filed: April 24, 2001 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 00614-120001 : CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 13, 2006. Patentees request that the patent term adjustment indicated on the face of the patent be corrected from zero (0) days to three hundred seventy-six (376) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **ONE (1)** day.

On January 10, 2006, the above-identified application matured into U.S. Patent No. 6,985,341, with a revised patent term adjustment of 0 days. On March 13, 2006 (certificate of mailing dated March 10, 2006), patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within 2 months of the issuance of the patent. In effect, patentees dispute¹ the reductions for applicant delay of 336 days

¹ Patentees state that there were no circumstances within this case history that constitute a failure by the Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR § 1.704. However, patentees expressly state that they do

and 309 days entered after the mailing of the notice of allowance.

The application has been reviewed and it is determined that only one of these reductions should have been entered. 37 CFR 1.704(c)(3) provides that the patent term adjustment should be reduced as follows for:

Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

In this instance, the application became abandoned for failure to respond within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed August 23, 2004. A Notice of Abandonment was mailed on September 2, 2005. It is noted that the petition to withdraw the holding of abandonment or in the alternative, to revive the application was filed within two months on September 23, 2005. (Thus, no reduction under 37 CFR 1.704(c)(4) was or should have been entered). A decision granting the petition was mailed on October 25, 2005, within four months of the filing date of the petition. Accordingly, a period of reduction of 336 was properly entered pursuant to 37 CFR 1.704(c)(4) for the period beginning on November 24, 2004, the date of abandonment and ending on October 25, 2005, the date of mailing of the decision.

There is no basis for also entering a reduction of 309 days for applicant delay in submitting the issue fee.

However, patentees are advised that a review of the application revealed a further basis for reduction. A reduction pursuant to

not dispute the pre-allowance calculations (which include reductions under 1.704 for applicant delay) and cite specific agreement with the bases and amounts of those reductions (67 days).

§ 1.704(c)(10) of 39 days is proper. After the mailing of the notice of allowance on April 7, 2004 (and payment of the issue fee in response on June 1, 2004), on July 16, 2004, applicants filed a Petition to Withdraw from Issue, a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS). The IDS did not include a § 1.704(d) statement. These papers were fully responded to with the mailing of another Notice of Allowance on August 23, 2004. By definition, this is a failure to engage in reasonable efforts to conclude prosecution within the meaning of § 1.704(c)(10). Thirty-nine days is the number of days in the period, counting the number of days beginning on July 16, 2004 and ending on August 23, 2004.

In view thereof, the patent should have issued with a revised patent term adjustment of one (1) day.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Certificates of Correction Branch has been advised of this decision. The Certificates of Correction Branch is thereby forwarded this application for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE (1)** day.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,985,341 B2
DATED : January 10, 2006
INVENTOR(S) : Vinciarelli et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert -- by 1 day--